

December 19, 2022

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Hon. Ronnie Abrams, U.S. District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2203
New York, NY 10007
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Re: *United States v. Caroline Ellison* – S2 22-cr-673 (RA) – Motion to Seal Courtroom for Plea Requested to Remain Under Seal

Dear Judge Abrams:

Our client, Caroline Ellison, is scheduled to appear before Your Honor this afternoon to plead guilty pursuant to a cooperation plea agreement to a seven-count criminal information which is to be filed under seal. Ms. Ellison's case concerns the collapse of the cryptocurrency exchange FTX and its affiliated cryptocurrency trading firm, Alameda Research. That collapse has already led to the indictment and arrest of FTX's principal, Sam Bankman-Fried, and the government has publicly stated that its investigation is ongoing. To protect the confidentiality of its investigation, we understand the government intends to move to seal the transcript of Ms. Ellison's plea and any exhibits filed in the plea proceeding. We respectfully ask the Court to close the courtroom for her plea hearing today. Closure is necessary to protect Ms. Ellison's safety while she continues to cooperate with law enforcement. Counsel for the government have indicated that they take no position on this request.

This case has already become notorious. As a result, Ms. Ellison and her family have been subject to intense and aggressive scrutiny. Acknowledgment by Ms. Ellison in her guilty plea of her role in the collapse is likely to increase the risks to her personal safety and to the privacy of her family.

We recognize that under both the First Amendment and Fed. R. Crim. P. 11, plea proceedings have "typically been open to the public," and so "the public and the press have a qualified First Amendment right of access to plea proceedings and plea agreements." *U.S. v. Alcantara*, 396 F.3d 189, 196 (2d Cir. 2005) (internal quotation marks omitted). However, in this case, the courtroom's "closure is essential to preserve higher values and is narrowly tailored to serve that interest." *United States v. Haller*, 837 F.2d 84, 87 (2d Cir. 1988). Therefore, "[w]here appropriate and after making the necessary findings" on the record, the Court "may close the courtroom during the plea proceedings [and] seal the transcript." *United States v. Rodriguez*, 725 F.3d 271, 278, (2d Cir. 2013).

The Second Circuit has repeatedly acknowledged that district courts may grant motions to seal where "[u]nlimited access" to proceedings and materials" might adversely affect law enforcement

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interests” by impeding “the voluntary cooperation of persons who may want or need confidentiality.” *U.S. v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995). This case involves allegations of the misappropriation of billions of dollars in FTX customer funds. The magnitude of these alleged losses would inevitably raise concerns about retribution and vigilantism against those believed to be responsible. The vitriol spewed toward Ms. Ellison online intensifies that concern.¹

Ms. Ellison and her family have also been the subject of intense and aggressive attention. Closing the courtroom would protect her privacy interests, which should be weighed against “the presumption of openness.” *Lynch v. Southampton Animal Shelter Found., Inc.*, 2012 WL 13109966, at *2 (E.D.N.Y. Jul. 10, 2012) (citing *Amodeo*, 71 F.3d at 1050). Her whereabouts have been a topic of intensive speculation for weeks. While Ms. Ellison has been in New York City attending proffer sessions with the U.S. Attorney’s Office, the Securities and Exchange Commission, the Commodities Futures Trading Commission, and the Federal Bureau of Investigation, she has had to take careful measures to avoid being recognized in public. One of the few times Ms. Ellison removed her face-mask in public, while getting a coffee on December 4, 2022 in Manhattan, a bystander recognized her and immediately posted her photo to Twitter, where she was quickly identified, leading to a cascade of rumors about her possible cooperation.² Some circulating the picture advocated for anyone seeing her to make a “citizen[’s] arrest.”³ She

¹ See, e.g., A. Court, “Sam Bankman-Fried ex Caroline Ellison made ‘foray’ into ‘Chinese harem’ polyamory,” *N.Y. Post*, (Nov. 17, 2022), <https://nypost.com/2022/11/17/ftx-linked-caroline-ellison-was-into-chinese-harem-polyamory>; “Caroline Ellison is the former CEO of Alameda Research,” *Reddit.com* (last visited Dec. 19, 2022), https://www.reddit.com/r/amcstock/comments/yuiexo/caroline_ellison_is_the_former_ceo_of_alameda.

² See, e.g., I. Keane, “Sam Bankman-Fried’s ex spotted in NYC as rumors of her flipping on him swirl,” *N.Y. Post*, (Dec. 14, 2022), <https://nypost.com/2022/12/14/sam-bankman-frieds-ex-caroline-ellison-spotted-in-nyc>.

³ See, e.g., Sym (@SPol0x), Twitter (Dec. 4, 2022 1:11 PM), <https://twitter.com/SPol0x/status/1599466345313103874> (advocating “performing a ... citizen arrest” “instead” of “taking a sneaky picture”).


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has had to stop staying at her sister's apartment, because the press have camped outside that building.⁴ Reporters have also hounded her parents in Massachusetts.⁵

Because the transcript and records of the plea hearing will be unsealed in any event when the government chooses to make this portion of its investigation public, the interests of the press and the public in the content of Ms. Ellison's plea proceeding will be protected. In the meantime, we respectfully move the Court to seal the courtroom for Ms. Ellison's plea to protect her safety and privacy while she continues to cooperate with the government.

Finally, we request that the Court accept and maintain this letter motion under seal to protect Ms. Ellison's privacy and that of her family members.

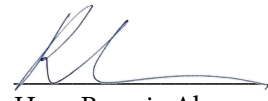
Respectfully Submitted,


Anjan Sahni

cc: Danielle Sassoon
Nicholas Roos

Defendant's motion to seal the courtroom during today's plea hearing is denied. The Second Circuit has instructed that closure "should be invoked only upon a showing of a significant risk of prejudice to the defendant's right to a fair trial or of danger to persons, property, or the integrity of significant activities entitled to confidentiality, such as ongoing undercover investigations or detection devices." *Application of The Herald Co.*, 734 F.2d 93, 100 (2d Cir. 1984). While the Court is sensitive to Defendant's concerns about her privacy, a generalized interest in avoiding public attention or press scrutiny is not a compelling interest that justifies closure of the courtroom. *See United States v. Doe*, 63 F.3d 121, 127-28 (2d Cir. 1995); *see also United States v. Martoma*, No. 12-cr-973 (PGG), 2014 WL 164181, at *6 (S.D.N.Y. Jan. 9, 2014) (observing that, "although courts consider the defendant's privacy interest" in evaluating whether to close a proceeding, "it is generally the privacy interests of *innocent third parties* that weigh heavily in a court's balancing equation") (cleaned up) (emphasis in original). Nor has Defendant shown that denying this motion would pose a "substantial probability of danger" to her. *Doe*, 63 F.3d at 129-130.

SO ORDERED.


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⁴ See "Caroline Ellison, 28, seen for the first time since her fraudster ex Sam Bankman-Fried was arrested," *E. Post Elrisala*, (Dec. 16, 2022), <https://www.elrisala.com/2022/12/16/caroline-ellison-28-seen-for-the-first-time-since-her-fraudster-ex-sam-bankman-fried-was-arrested>.

⁵ See O. Land & J. Morphet, "Caroline Ellison's parents too 'busy' to talk Sam Bankman-Fried, FTX," *N.Y. Post*, (Dec. 15, 2020), <https://nypost.com/2022/12/15/caroline-ellisons-parents-too-busy-to-comment-on-ftx-scandal>.